

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

MAR 18 1998

DAVID J. MALARD CLERK
SACRITY

THE STATE OF TEXAS,
Plaintiff

v.

THE AMERICAN TOBACCO
COMPANY; R.J. REYNOLDS
TOBACCO COMPANY; BROWN &
WILLIAMSON TOBACCO CORP.;
B.A.T. INDUSTRIES, P.L.C.;
PHILIP MORRIS, INC.; LIGGETT
GROUP, INC.; LORILLARD TOBACCO
COMPANY, INC.; UNITED STATES
TOBACCO COMPANY; HILL &
KNOWLTON, INC.; THE COUNCIL
FOR TOBACCO RESEARCH - USA,
INC. (Successor to Tobacco Institute
Research Committee); and THE TOBACCO
INSTITUTE, INC.

Defendants

CAUSE NO. 5-96-CV-091

BRIEF OF MONTGOMERY COUNTY HOSPITAL DISTRICT
AND TARRANT COUNTY HOSPITAL DISTRICT
REGARDING AMICUS CURIAE BRIEF OF
NINETY SEVEN TEXAS COUNTIES

NOW COME Montgomery County Hospital District, and Tarrant County Hospital District (hereafter "Texas Local Governments") and pursuant to the Court's order of March 16, 1998 file this brief regarding the Amicus Curiae Brief filed by ninety-seven Texas Counties (now by way of amended pleading one hundred four Texas Counties):

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I.

Texas Local Governments Do Not Object To Consideration Of The Issues
Briefed By Amicus Curiae

Texas Local Governments have no objection to the Court's review and consideration of Texas Counties Amicus Curiae Brief. In particular, Texas Local Governments agree with the position of amici counties that counties and hospital districts have claims for damages against the Tobacco Defendants which are separate and distinct from the damages alleged by the State in this case. Texas Local Governments also agree with the assertion by amici counties that the interests of the counties cannot be adequately represented by any party in this case.

Texas Local Governments disagree with the assertion that any intervenor cannot represent the counties as a class representative, however, it is unnecessary for the Court to entertain this issue at this time.

Texas Local Governments agree that the Indigent Health Care and Treatment Act, Texas Health & Safety Code Ann. §§ 61.021 et. seq., requires Texas Counties to provide health care services at significant expense to the counties.¹

To the extent it is determined the claims of Texas Local Governments have been affected by the Settlement Agreement, Texas Local Governments agree with the objection of amici counties to the terms of the Settlement Agreement which establish a proposed allocation of settlement sums solely to the State's Treasury.

¹ The amounts expended by Texas Hospital Districts, including Intervenor Applicants, substantially exceeds the amounts expended by Texas Counties for unreimbursed health care, however, Texas Counties unreimbursed expenses in absolute dollar amounts are significant.

WHEREFORE, PREMISES CONSIDERED, Montgomery County Hospital District and Tarrant County Hospital District pray that the Court consider the position of amici counties as set forth in their Amicus Brief.

Respectfully submitted,

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**ATTORNEYS FOR MONTGOMERY COUNTY
HOSPITAL DISTRICT AND TARRANT
COUNTY HOSPITAL DISTRICT**

CERTIFICATE OF SERVICE

I hereby certify in compliance with Fed. R. Civ. P. 5 and the Case Management Order of November 5, 1996, that a true and correct copy of the foregoing document has been sent to the following on this the 18th day of March, 1998.

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